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MARA GREEN PINES GAME FARM
DECISION DOCUMENT
August 16,1999

Game Farm Application and MEPA Review

Montana Fish, Wildlife & Parks (FWP) received an application for a game farm license from Ron Gregory on April 9,1999. On April 22, 1999, FWP accepted the original application as complete which initiated a 120-day review and decision period per laws governing game farms.

The proposed Mara Green Pines Game Farm would consist of 320 acres of contract-for-deed land located approximately 12 miles southwest of the town of Forsyth. The game farm applicant intends to build a residence just outside the east side of the game farm perimeter fence. The Proposed Action consists of placing up to 120 elk (100 cows and 20 bulls), 12 mule deer (10 doe and 2 bucks), and 12 white-tailed deer (10 doe and 2 bucks) in the game farm throughout the year. According to the application, the game farm would initially have 20 elk (10 cows and 10 bulls) and no deer. Purposes of the proposed game farm include: breeding stock, meat and antler production, and to cull mature bull elk and buck deer for profit through controlled shooting by clients who desire trophy elk or deer. Elk and deer released into the proposed game farm would come from other licensed game farms.

A draft Environmental Analysis (EA) on the proposal was prepared pursuant to the Montana Environmental Policy Act (MEPA) and the game farm statute and distributed for public review on June 18,1999. The draft EA identified no significant impacts that could not be mitigated.

The Department has reviewed and responded to the public comments and determined that the draft EA did not adequately address all of the issues raised. The Department, accordingly, issued a Final EA, which modified the Draft EA. With a modification to the proposed mitigation measure (stipulation) incorporated in the Final EA, the department has determined that the proposed project will create no significant impacts on the human environment and determined, therefore, that an environmental impact statement was not required.

Refer to the Final EA for a discussion of the public comments and the department responses.

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Proposed Decision

Based upon our review of the EA, the game farm license application file and the information noted below, the FWP has determined that a license to operate the game farm in question will be issued. The issuance of this license is contingent upon approval of fence construction, Department of Livestock approval of quarantine and handling facilities and the Licensee's adherence to the stipulations listed below. The Licensee will have two years from the date of this approval to complete fence construction as submitted in his application. Changes from the application must be approved by FWP prior to implementation of modifications.

Licensee must be in compliance with all game farm statutes, rules and regulations of Montana Fish, Wildlife and Parts and Department of Livestock. Current regulations are attached for the applicant's information, but it is the licensee's responsibility to keep up with any changes in the laws or regulations. The Licensee must also comply with the stipulation listed below.

REQUIRED STIPULATIONS

The following stipulation is imposed by FWP for the Mara Green Pines Game Farm and is designed to mitigate significant impacts identified in the EA to below the level of significance:

> *Inspect the exterior game farm fence on a weekly basis and immediately after events likely to damage the fence to insure its integrity with respect to trees, burrowing animals, predators and other game animals. Submit a written fence monitoring plan to FWP for approval prior to FWP granting the game farm license. Hazard trees (e.g., large ponderosa pines proximal to the fence) shall be removed from either side of the perimeter fence. Where the perimeter fence is to be located along a property boundary, the fence shall be setback sufficiently (a minimum of 12 feet) to create a buffer zone between neighboring domestic livestock and game farm animals; and where fence repairs and inspections can be made and hazard trees removed or avoided, so as to not trespass. The perimeter fence on steep slopes (30+ degrees) should be raised to a total height of 10 feet. Should ingress of wildlife during winter become a problem, areas prone to snow drifting shall be identified and the fence height raised sufficiently to prevent ingress/egress.*

This stipulation is imposed to mitigate a potentially significant risk to fence integrity and the resulting potential contact with domestic livestock and/or wildlife. Risk to livestock and wildlife from contact between game farm animals and domestic livestock and wild game is potentially significant due to the site being located in an area currently utilized by domestic livestock and wild game animals.

RECOMMENDED MITIGATION MEASURES

The following recommended; not required, mitigation measures address minor impacts identified in the Mara Green Pines Game Farm EA for resources that have the most potential to cause adverse effects from the Proposed Action. Should they become a problem the Department suggests the applicant use them to prevent or manage these effects.

- The high corrosive potential of the soil should be considered when designing the exterior fence. Uncoated steel posts may corrode with time in these soils.

- Maintain a reasonable stocking rate within the enclosure to minimize changes in soil structure and potential increases in erosion from disturbed ground. A "reasonable stocking rate" is defined under *EA Definitions* on the first page of *Part II - Environmental Review* of the Draft EA; additional information regarding a reasonable stocking rate is provided under Section 4 (*Vegetation*) of *Part II* in the Draft EA.

- Dust management activities include spraying water on unpaved roads during the dry season, vegetating exposed ground where possible, protecting fill piles from wind erosion, and limiting ground disturbance to only the area necessary to complete the job.

- Employ the following best management practices (BMPs) to reduce odor problems if they occur: (1) incorporate waste into soil quickly by plowing or disking; (2) spread waste during cool weather or in the morning during warm, dry weather; and (3) properly dispose of animal carcasses. Carcasses should not be disposed of in or adjacent to water bodies, roads, and ditches.

- Maintain a reasonable stocking rate in the area to mitigate potential impacts from runoff and fecal matter. Potential water quality impacts also could be minimized by disposing dead animals, gut piles, and excess fecal material at a site that is isolated from surface water and groundwater (disposal must meet county regulations for solid waste).

- For any areas that may have erosion and sedimentation problems, utilize BMPs where surface water could enter gullies draining to Reservation Creek. The BMPs may include earth berms, straw bale dikes, vegetative buffer zones, and/or silt fences.

- Remove or cut vegetation along the outside of the exterior fence (suggest width of 12 feet) to minimize attraction of wildlife and/or livestock to the game farm.

- Monitor the proposed game farm site for invasion of noxious weeds and treat affected areas in a timely manner. Should noxious weeds continue to be detected, a weed control program should be implemented to control the weeds.

- Provide supplemental feed and minerals to the game farm animals on a yearlong basis to reduce excessive grazing on preferred pasture plants.

- Store hay, feed, and salt away from exterior fences or enclose in bear-resistant containers or buildings.

- Feed game farm animals at interior portions of the enclosure and not along the perimeter fence.

- Adjust fence requirements to include double fencing, electrification, or increased height if fence integrity or ingress/egress becomes a problem.

- Reduce the frequency of shooting and/or modify the shooting period if shooting in the game farm results in substantial noise complaints.

- Reduce the number of bull elk during the rut if excess noise from bugling results in substantial complaints.

- If archeological artifacts are observed during construction of the game farm fence or from other activities, work should stop in the area and the discovery reported to the Montana Historical Society in Helena. If work stoppage in the area containing observed artifacts is not possible, record the location and position of each object, take photographs and preserve the artifact(s).

The Department has the duty under the Montana Environmental Policy Act to conduct an additional environmental review if the action approved by the agency changes, subsequent to the agency's original approval, in a manner which has impacts substantially different from those which were reviewed in the original MEPA review. Ravalli County Fish and Game Association v. Montana Department of State Lands, 273 Mont. 371, 903 P.2d 1362 (1995). For that reason, the Department provides notice that the MEPA review performed for the instant license application reviewed the impacts of a game farm with 120 elk, 12 mule deer, and 12 white-tailed deer. To the extent that the applicant hereafter increases the number or species of animals or makes other significant changes to the operation, a supplemental MEPA review may be conducted.

Don Hyyppa
Regional Supervisor

August 18, 1999
Date

Please sign and return the original to FWP to indicate your concurrence with the license stipulations listed above. A copy of the signed decision will be provided to you for your records.

Mail to: Don Hyyppa, Montana Fish, Wildlife & Parks, Box 1630, Miles City, MT 59301

Ron Gregory

Date

FINAL ENVIRONMENTAL ASSESSMENT
MARA GREEN PINES GAME FARM

MONTANA ENVIRONMENTAL POLICY ACT (MEPA) PROCESS

Montana Fish, Wildlife & Parks (FWP) is required to perform an environmental analysis in accordance with MEPA for "each proposal for projects, programs, legislation, and other major actions of state government significantly affecting the quality of the human environment" [Administrative Rules of Montana (ARM) 12.2.430]. FWP prepares environmental assessments (EA) to determine whether a project would have a significant effect on the environment.

The people of Montana, through our legislature, have determined that the alternative livestock industry (game farming) is appropriate in Montana. It is understood that this carries with it some risk that cannot be reduced to zero. The level of risk that a particular project may introduce must be evaluated by FWP (through the MEPA process) using legislative intent, the negotiated administrative rules and standards therein, as well as established practices that have been demonstrated to be sufficiently effective measures for similar conditions elsewhere.

If, using the above parameters, FWP determines that a project would have a significant impact that cannot be mitigated to a minor impact, the agency will prepare a more detailed environmental impact statement (EIS) before making a decision. If the agency determines that a proposed project will not have a significant impact, or that the impact can be mitigated to minor or none, the agency may make its licensing decision based upon results of the EA and criteria established under Montana game farm statute Montana Code Annotated (MCA) Title 87, Chapter 4, Part 4.

Mitigation measures may be considered in FWP's analysis as a means to reduce impact(s) of a game farm to a level below significance. FWP may also recommend mitigation measures to reduce impacts that are considered minor. FWP prepared a Draft EA for the proposed Mara Green Pines Game Farm which identified no significant impacts from the Proposed Action that could not be mitigated. The Draft EA was released for public review and comment June 18, 1999. Public comments were initially accepted through July 9, 1999. At the request of several members of the public, a public meeting was conducted on July 22, 1999 in Forsyth, Montana. As a result, public comments were accepted through July 26, 1999.

The Draft EA, as modified herein, and this Final EA are hereby approved as the Final EA. This Final EA for the proposed Mara Green Pines Game Farm contains summaries of the Proposed Action, affected environment, and potential consequences of the Proposed Action, all of which are described in additional detail in the Draft EA, which is adopted in this Final EA. This document also describes mitigation measures, includes public comments, and provides the conclusion of the EA. The preferred alternative is the Proposed Action with one required stipulation and several recommended mitigation measures.

PROPOSED GAME FARM APPLICATION

FWP received an initial application dated April 9, 1999 from Mr. Ron Gregory to construct an elk and deer game farm (i.e., alternative livestock) in Rosebud County, Montana. An amended quarantine map was received by FWP on April 21, 1999. FWP accepted the application as complete in a letter to Mr. Gregory dated April 22, 1999. The proposed Mara Green Pines Game Farm would consist of 320 acres of contract-for-deed land located approximately 12 miles southwest of the town of Forsyth. The game farm applicant intends to build a residence just outside the east side of the game farm perimeter fence. Another residence may be constructed inside the east perimeter fence.

The Proposed Action consists of placing up to 120 elk (100 cows and 20 bulls), 12 mule deer (10 doe and 2 bucks), and 12 white-tailed deer (10 doe and 2 bucks) in the game farm throughout the year. According to the application, the game farm would initially have 20 elk (10 cows and 10 bulls) and no deer. Purposes of the proposed game farm include: breeding stock, meat and antler production, and to cull mature bull elk and buck deer for profit through controlled shooting by clients who desire trophy elk or deer. Elk and deer released into the proposed game farm would come from other licensed game farms.

The two perimeter fence gates would remain latched or locked, except for when game farm animals are moved into or out of the enclosure, at which time the gates would be monitored to prevent ingress/egress. FWP and Montana Department of Livestock (DoL) would remove wild animals from the game farm enclosure prior to issuance of the license.

Fence construction would be completed in accordance with requirements of FWP under ARM 12.6.1531. Game farm fencing would consist of 8-foot high, high-tensile 12½-gauge, knotted-joint, woven wire game fence. The fence bottoms must be installed to provide not more than 3 inches of ground clearance. A handling and quarantine facility would be constructed along the mid-eastern side of the game farm site for purposes of handling and testing the elk; this would be constructed according to DoL standards.

ALTERNATIVES

One alternative (No Action Alternative) is evaluated in this EA. Under the No Action Alternative, FWP would not issue a license for the Mara Green Pines Game Farm as proposed. Therefore, no game farm animals would be placed in the proposed fenced enclosure. Implementation of the No Action Alternative would not preclude other activities allowed under local, state and federal laws to take place at the proposed game farm site.

AFFECTED ENVIRONMENT

The proposed Mara Green Pines Game Farm is located on contract-for-deed land about 12 miles southwest of Forsyth, Montana. The site is in the Reservation Creek drainage about 6 miles south of the Yellowstone River. This area is characterized by numerous gulches, which dissect the land surface into irregular hills and ridges. The proposed game farm site consists of 320 acres of moderately steep hills and intervening gulches, which slope westward toward Reservation Creek. Elevations at the site range from about 3100 feet in the east to 2920 feet in the west. The land is predominantly rangeland, with stands of Ponderosa Pine on ridge tops in the northeast corner of the site.

The site is underlain by the Cretaceous-age Bearpaw Formation, which consists predominantly of clay shale and beds of bentonite. Soil at the site is predominantly loam and clay loam. Soil thickness at the site ranges from 10 to 20 inches on steeper slopes to greater than 60 inches on lower areas. The soil types exhibit a high risk of corrosion for exposed metal and slow to moderately slow permeability. Potential for erosion by water is generally moderate and the potential for erosion by wind is slight to moderate.

Surface water does not occur at the game farm site, except for occasional flow in channels during large rainfall events or during snow melt conditions. Runoff from the site flows westward through several gulches to Reservation Creek. Intermittent flow in Reservation Creek empties into the Yellowstone River approximately 6 miles north of the site.

Water for the elk would be obtained from two wells located on the property. The applicant indicates that the wells are 250 and 270 feet deep and encountered water at approximately 220 feet below grade. Well records on-file with the Montana Department of Natural Resources and Conservation indicate that two additional water wells are located within 1 mile of the site. Both wells are reportedly used to water livestock.

The proposed 320-acre game farm is situated on the margins of forested breaks-like topography on the east side of Reservation Creek about 6 miles south of the Yellowstone River. The game farm is comprised of native rangeland (310 acres, 96%), woody draws (5 acres, 2%) and ponderosa pine forested hillsides (5 acres, 2%). Past use of this site was to provide pasture to cattle, but horses currently graze it. The rangeland vegetation is located on rolling hills and coulee bottomlands. Blue grama, western wheatgrass, needle-and-thread grass, and big sagebrush dominate vegetation in the upland areas. Forage production in these upland sites is estimated at 750 pounds per acre. Western wheatgrass, green needlegrass, and silver sagebrush dominate vegetation in the coulee bottoms. Forage production at these sites is estimated at 1,500 pounds per acre.

There are no federally listed threatened or endangered plant species expected to occur within the proposed game farm site. The proposed game farm site does contain suitable habitat for noxious weeds such as leafy spurge, Canada thistle, and mullein but these species were not evident during the site inspection.

The proposed game farm site and surrounding land (including the timbered breaks) represents good to excellent mule deer habitat. Estimated mule deer density in this general area is 5 to 10 deer per square mile. The proposed game farm site and surrounding area contains a good combination of forested habitat, topographic diversity, and productive shrubs and herbaceous vegetation. In addition, pronghorn antelope winter on bottomlands along the Yellowstone River and adjacent sagebrush/grassland hills. Pronghorn may travel through the proposed game farm site, but the site may be marginal pronghorn habitat due to topographic diversity. White-tailed deer and elk may occasionally pass through this area, and elk appear to be increasing in this area. It is likely that at least some deer are migratory into this area, but there are no known migration corridors or critical winter range for deer in this area. This area supports populations of sharp-tailed grouse and wild turkey. Mountain lions are present in this area. Currently, there are no documented sightings of gray wolves (federally listed as threatened) for this area. This area could potentially be used by migratory bald eagles, peregrine falcons, and whopping cranes (federally listed bird species).

Most land immediately surrounding the proposed game farm is brush rangeland and timber grazed by cattle and horses. This land has historically been used by locals who frequent the general area. No public land is located within 1 mile of the game farm site; however, approximately 2,600 acres of publicly-accessible Bureau of Land Management (BLM) and State Trust land exists within 3 miles of the site. These public lands have been leased by local ranchers for agricultural use and are occasionally used by local residents for recreational purposes (mostly hunting). The nearest residence is located approximately 3-4 miles east of the proposed game farm site along Highway 39. Clients using the shooting services of the game farm are not expected to have a substantial economic affect on the community (i.e., Forsyth).

CONSEQUENCES OF THE PROPOSED ACTION

Only primary resources that have potential adverse effects from the Proposed Action are summarized in this section. A detailed discussion of environmental consequences is contained in *Part II* of the Draft EA.

Impacts to Land, Water, and Vegetation Resources

Impacts to soil and land resources are expected to be minimal with proper management of the maximum 120 elk and 24 deer in the 320-acre enclosure. The major concerns are associated with potential loss of vegetative cover and resulting soil erosion. The relatively thin (10-20 inches thick) soil on steeper slopes and highly wind erodible soil type in the northwest corner of the site are most susceptibility to erosion. In addition, the relatively high clay content and slow permeability of the soils can cause gumbo conditions when it rains, which can result in considerable soil erosion when paths, roads, and animal congregation areas are used under these conditions.

Domestic elk fecal matter and nutrient-enriched water may have a minor effect on the quality of groundwater and surface water in the vicinity of the ranch, primarily during periods of snow melt and major precipitation events. Nutrients in runoff from the site could potentially enter Reservation Creek whenever significant precipitation amounts occur. Using the site as cattle pasture would likely have a similar effect. The two water supply wells identified within 1 mile of the site are likely on the order of 200 feet deep and should not be affected by the operation.

The proposed game farm site would supply only about half the annual forage needs of the elk and deer when fully stocked. The maximum stocking rate is considered moderate to high and probably would contribute to the long-term decline of vegetation resources both in terms of plant species composition and productivity of the site. Supplemental feed would be required to sustain the elk and deer during the non-growing season and some feed should be provided during the growing season to help reduce use by game farm animals on the native vegetation.

There are no known threatened or endangered plant species in this area. Development of the proposed game farm would not result in the loss of any cropland or pastureland. Although noxious weeds were not apparent at this site, disturbed areas around the quarantine and handling facilities or where elk and deer are fed would provide an opportunity for weeds to become established.

Impacts to Wildlife Resources

The proposed game farm site is not located within any identified critical big game winter range, nor is it located along a migration corridor. Migratory pronghorn may pass through this area, but it is more likely that their travel corridor is along the Reservation Creek bottomlands. This specific site is good mule deer habitat, and may also serve as deer winter range for some migratory deer but this has not be confirmed through actual field investigations. The exclusion of wild deer from 320 acres would displace an estimated 2 to 4 individuals from quality habitat. This may influence the survivorship of a couple of mule deer, but it is not likely to significantly influence the overall mule deer population in the general area. The proposed game farm would not influence any threatened or endangered species. Although mountain lions could potentially pass through this area and be attracted to the game farm elk and deer, the likelihood of a lion entering the game farm is reduced because the game farm site lacks significant timber cover.

There are no perennial streams or lakes located within the proposed game farm site and there would be no anticipated impacts to aquatic resources. The containment of up to 120 adult elk and 24 adult deer on 320 acres on a yearlong basis is expected to degrade woody draws and reduce shrub and grass cover. This would likely reduce the abundance of neotropical migrant birds using the proposed game farm site. There would be no introduction of a new species to this area.

Due to the lack of surface water on the game farm site (except for brief periods of intense rain storms or snow melt runoff), there is little potential for transmission of water-borne disease pathogens, if present, to be transported downstream from the game farm. Brucellosis and tuberculosis are two diseases that are potentially transmittable from domestic elk and deer to cattle and horses. Domestic livestock are currently pastured on adjacent rangelands and pasturelands, and there would be an opportunity for contact between domestic livestock and game farm elk and deer. Chronic wasting disease (CWD) also has been detected in game farm elk, but the mode of transmission is unknown and there is no test for this disease in living animals. There is no evidence of CWD transmission to domestic livestock or humans.

The risk of disease being passed from game farm elk and deer to domestic livestock would be minimal if fence integrity is maintained and the stipulations and/or mitigation measures described in this EA are followed. Potential for disease transmission to domestic livestock from game farm animals is also mitigated through DoL disease testing requirements.

Impacts to Safety, Land Use, Community, and Recreation

The nearest residence is located approximately 3-4 miles east of the proposed game farm site along Highway 39. Other residences are sparsely located at greater distances from the site. These sites should be safe from shooting that may occur on the game farm site. A county road is located approximately ½-mile west of the game farm. Most public land located in the vicinity of the game farm is located 2 to 3 miles from the site. The county road and some public land are within average maximum ranges of high-powered big game rifles. The presence of trees in portions of the game farm and topographic changes (i.e., hills and gulches) would provide some protection for bullets used in the game farm area. The area historically has been used for general hunting and shooting activities.

The proposed game farm would be compatible with existing agricultural land uses. With respect to land use, no significant conflicts should result between operation of the game farm and the agricultural or residential areas. Additional homes could be constructed in the vicinity of the game farm on private land. Potential effects of the game farm on adjacent property values is difficult to evaluate because some nearby property owners may like the idea of a game farm, whereas others would find it undesirable. Minor use of the BLM and State lands could be affected because of concerns for shooting activities at the game farm.

The visual character of the area may change slightly as a result of the game farm fence, which would be constructed around the game farm perimeter. This impact would probably be most directed at persons residing and/or recreating in the game farm area (sparse population and recreation in the area). The impact is expected to be minor and most likely short-term since fences are a common sight in the area and the general vicinity has a scattered tree cover with topographic ridges that block the view of the fence from most surrounding areas. Some people may find the elk and deer in the game farm appealing. The shooting activities may cause a slight change in recreational use of land near the game farm site.

Cumulative Effects

The Proposed Action would result in potential impacts that are individually minor, but not cumulatively significant. Due to the sparsely populated area in the vicinity of the proposed game farm site, no cumulative impacts to wildlife or habitat are expected.

REQUIRED STIPULATIONS

The following stipulation is imposed by FWP for the Mara Green Pines Game Farm and is designed to mitigate significant impacts identified in the EA to below the level of significance:

> *Inspect the exterior game farm fence on a weekly basis and immediately after events likely to damage the fence to insure its integrity with respect to trees, burrowing animals, predators and other game animals. Submit a written fence monitoring plan to FWP for approval prior to FWP granting the game farm license. Hazard trees (e.g., large ponderosa pines proximal to the fence) shall be removed from either side of the perimeter fence. Where the perimeter fence is to be located along a property boundary, the fence shall be setback sufficiently (a minimum of 12 feet) to create a buffer zone between neighboring domestic livestock and game farm animals; and where fence repairs and inspections can be made and hazard trees removed or avoided, so as to not trespass. The perimeter fence on steep slopes (30+ degrees) should be raised to a total height of 10 feet. Should ingress of wildlife during winter become a problem, areas prone to snow drifting shall be identified and the fence height raised sufficiently to prevent ingress/egress.*

This stipulation is imposed to mitigate a potentially significant risk to fence integrity and the resulting potential contact with domestic livestock and/or wildlife. Risk to livestock and wildlife from contact between game farm animals and domestic livestock and wild game is potentially significant due to the site being located in an area currently utilized by domestic livestock and wild game.

RECOMMENDED MITIGATION MEASURES

The following recommended mitigation measures address minor impacts identified in the Mara Green Pines Game Farm EA for resources that have the most potential effects from the Proposed Action:

- The high corrosive potential of the soil should be considered when designing the exterior fence. Uncoated steel posts may corrode with time in these soils.

- Maintain a reasonable stocking rate within the enclosure to minimize changes in soil structure and potential increases in erosion from disturbed ground. A "reasonable stocking rate" is defined under *EA Definitions* on the first page of *Part II - Environmental Review* of the Draft EA; additional information regarding a reasonable stocking rate is provided under Section 4 (*Vegetation*) of *Part II* in the Draft EA.

- Dust management activities include spraying water on unpaved roads during the dry season, vegetating exposed ground where possible, protecting fill piles from wind erosion, and limiting ground disturbance to only the area necessary to complete the job.

- Employ the following best management practices (BMPs) to reduce odor problems if they occur: (1) incorporate waste into soil quickly by plowing or discing; (2) spread waste during cool weather or in the morning during warm, dry weather; and (3) properly dispose of animal carcasses. Carcasses should not be disposed of in or adjacent to water bodies, roads, and ditches.

- Maintain a reasonable stocking rate in the area to mitigate potential impacts from runoff and fecal matter. Potential water quality impacts also could be minimized by disposing dead animals, gut piles, and excess fecal material at a site that is isolated from surface water and groundwater (disposal must meet county regulations for solid waste).

- For any areas that may have erosion and sedimentation problems, utilize BMPs where surface water could enter gullies draining to Reservation Creek. The BMPs may include earth berms, straw bale dikes, vegetative buffer zones, and/or silt fences.

- Remove or cut vegetation along the outside of exterior fence (suggest width of 12 feet) to minimize attraction of wildlife and/or livestock to the game farm.

- Monitor the proposed game farm site for invasion of noxious weeds and treat affected areas in a timely manner. Should noxious weeds continue to be detected, a weed control program should be implemented to control the weeds.

- Provide supplemental feed and minerals to the game farm animals on a yearlong basis to reduce excessive grazing on preferred pasture plants.

- Store hay, feed, and salt away from exterior fences or enclose in bear-resistant containers or buildings.

- Feed game farm animals at interior portions of the enclosure and not along the perimeter fence.

- Adjust fence requirements to include double fencing, electrification, or increased height if fence integrity or ingress/egress becomes a problem.

- Reduce the frequency of shooting and/or modify the shooting period if shooting in the game farm results in substantial noise complaints.

- Reduce the number of bull elk during the rut if excess noise from bugling results in substantial complaints.

- If archeological artifacts are observed during construction of the game farm fence or from other activities, work should stop in the area and the discovery reported to the Montana Historical Society in Helena. If work stoppage in the area containing observed artifacts is not possible, record the location and position of each object, take photographs and preserve the artifact(s).

ERRATA SECTION

This section of the Final EA contains specific corrections to the Draft EA that are presented as a result of public comments (see following section "Summary of Public Comments and FWP Responses"). The Final EA incorporates the Draft EA with the following corrections. In addition, the required stipulations and recommended mitigation measures listed in this Final EA supersede the stipulations and mitigations contained in the Draft EA.

Modified Required Stipulation:

As requested by an adjacent landowner because of concern for existing fencing and domestic cattle, and to provide clearer direction to the applicant, the stipulation in the Draft EA has been modified by adding the following statement that adds more detail to the previous stipulation statement that the fence should be offset from property boundary:

> *Where the perimeter fence is to be located along a property boundary, the fence shall be setback sufficiently (a minimum of 12 feet) to create a buffer zone between neighboring domestic livestock and game farm animals; and where fence repairs and inspections can be made and hazard trees removed or avoided, so as to not trespass.*

Additional Recommended Mitigation Measure:

The following mitigation measure is added to this Final EA:

> Remove or cut vegetation along the outside of exterior fence (suggest width of 12 feet) to minimize attraction of wildlife and/or livestock to the game farm.

Modifications to Text of Draft EA:

Any reference to two residences that would be constructed within the east side of the game farm perimeter fence is incorrect. According to the applicant, only one residence is currently considered along the outside of the eastern exterior fence. See revised Figure 1 attached to this Final EA where the two proposed residences inside the game farm site have been removed. Another residence may be constructed within the eastern game farm fence; however, there is no definite plan to construct a second house at this time. The reference to two residences constructed in the game farm site is located on pages 2, 7, 15, 30, and 31 of the Draft EA. See written comment issue and response 8a below in the Summary of Public Comments and FWP Responses section.

SUMMARY OF PUBLIC COMMENTS AND FWP RESPONSES

Public comments for the Mara Green Pines Game Farm Draft EA were accepted from June 18 through July 26, 1999. FWP received nine public comment letters and three phone comments during the public comment period. In addition, eight comments were received at the public meeting held on July 22, 1999 in Forsyth, Montana. Substantive comments and questions are reproduced (paraphrased) below with FWP responses. Public comments are considered substantive if they relate to inadequacies or inaccuracies in the analysis or methodologies used in the Draft EA, or identify new impacts or recommend reasonable new alternatives or mitigation measures; or involve disagreements or interpretations of impact significance. Comments, which express personal preferences or opinions on the proposal, rather than on the evaluation itself are included but are not specifically addressed.

WRITTEN COMMENT LETTER NO. 1

Letter Issue 1a:
Elk farming in Montana is a serious disease, parasite, genetic and social problem.

Response 1a:
Comment noted. The people of Montana, through our legislature have determined that the alternative livestock industry (game farming) is appropriate in Montana. It is understood that this carries with it some risk that cannot be reduced to zero. The level of risk that a particular project may introduce must be evaluated by FWP (through the MEPA process) using legislative intent, the negotiated administrative rules and standards therein, as well as established practices that have been demonstrated to be sufficiently effective measures for similar conditions elsewhere. Concerns and potential impacts resulting from disease, genetic, and social issues are contained in the Draft EA.

Letter Issue 1b:
Wild animals belong to the public. There is a long Montana tradition of public ownership of wildlife with its fair harvest open to all and participated in by many.

Response 1b:
Comment noted.

Letter Issue 1c:
Montana's native wildlife co-evolved with the terrain, vegetation, water and climate. Naturally occurring genetic breeding, evolution and change make a wild animal fit for adversity.

Response 1c:
The applicant proposes to operate the game farm in compliance with Montana FWP and DoL regulations. Game farm operators must comply with fencing standards and maintain fencing in a game-proof condition at all times to prevent animals from escaping or entering the game farm premises. Prior to importation into Montana, game farm animals must be examined by an accredited veterinarian and test negative for tuberculosis, Brucellosis, and other diseases and must test negative for red deer hybridization.

Letter Issue 1d:
Elk farming is a business so destructive in the Montana context, that it should not be permitted.

Response 1d:
Comment noted.

Letter Issue 1e:
The sheer scale of the game farming business, the poor husbandry, the illegal traffic in game animals, the poor enforcement of regulations and the powerful political lobbies supporting it, will make lawbreaking and disease spread inevitable.

Response 1e:
The Proposed Action does not include the use of poor animal husbandry, or illegal activities; FWP and DoL periodically inspect game farms to ensure continued compliance with the license and regulations.

WRITTEN COMMENT LETTER NO. 2

Letter Issue 2a:
The transport of pathogens in runoff water is not mitigated and could cause a public health hazard. There is not sufficient data with regard to how chronic wasting disease (CWD) is transmitted.

Response 2a:
As stated on page 33 under paragraph 8(*a*) of the Draft EA, there is little potential for transmission of water-borne disease pathogens, if present, to be transported downstream from the game farm because of the lack of surface water in the site (except for brief periods of intense rain storms or snow melt runoff). It is true that the potential for CWD transmission in soil or water is unknown. Disease testing and surveillance requirements by the Department of Livestock (DoL) minimize the potential for transmission of disease out of the game farm area (see ARM 32.4.1301-1320 for surveillance requirements and importation restrictions on game farm animals with respect to CWD).

Letter Issue 2b:
No acceptable alternative is given to the displacement of public wildlife and habitat, and the threat of disease transmission and genetic pollution. The threat of disease transmission cannot be mitigated.

Response 2b:
Potential impacts to wildlife are discussed on pages 27-29 of the Draft EA, including the No Action Alternative. These impacts are deemed minor because the 320-acre game farm would not significantly block big game migration routes or consume a significant portion of land utilized by wildlife. Potential disease transmission impacts are described on pages 33-34 of the Draft EA. This section states that the risk of disease being passed from game farm elk and deer to domestic livestock and wildlife would be minimal if fence integrity is maintained and the stipulations and mitigation measures are followed. Disease testing and surveillance requirements by DoL also minimize the potential for disease transmission.

Letter Issue 2c:
Steep slopes create fencing problems that cannot be mitigated at times of natural disasters. Any possibility of fence damage could result in ingress/egress and disease transmission threats.

Response 2c:
As stated on page 45 of the Draft EA ("Fence Integrity" section), the fence would perpendicularly cross a few moderate (10-20 degrees) to steep (20+ degrees) slopes. Most of the game farm fence would cross low-gradient slopes (see Figure 1 in Draft EA). The required stipulation in this Final EA includes a requirement that the fence be raised to a total height of 10 feet on steep (30+ degree) slopes. The game farm rules (ARM 12.6.1531(2)) also state that "exterior fences constructed on slopes of 50 percent grade or 30 degrees or greater may require additional, stronger or higher fence posts, special grading, additional wire to increase fence height and other measures." The stipulation in this Final EA also requires weekly inspection of the fence and approval of a written fence-monitoring plan.

Letter Issue 2d:
The management of domesticated deer and elk is not equivalent to the management of other domestic livestock. A thorough environmental impact study (EIS) is recommended because there are adverse wildlife-related impacts that are not mitigated through a No Action Alternative.

Response 2d:
We agree that game farm animal management is not equivalent to livestock management; that is why there is a separate set of state rules that govern the operation of game farms. As stated on page 47 of the Draft EA, an EA was prepared instead of an environmental impact statement (EIS) for the Mara Green Pines Game Farm proposal because (1) all impacts of the Proposed Action have been accurately defined in the EA; and (2) all identified significant impacts would be mitigated to minor or none. FWP believes that the combined Draft and Final EAs for the game farm still meet the two criteria listed above for not preparing an EIS.

Letter Issue 2e:
Risk of disease transmission from game farm elk to domestic livestock should not be considered minimal. Steep slopes and harsh weather conditions makes it difficult to maintain fence integrity. The potential impacts from CWD are significant.

Response 2e:
Fence integrity can be maintained at this site with good construction practices and periodic fence monitoring. The stipulation specified in this Final EA requires weekly monitoring of the exterior fence and immediately after events likely to damage the fence. In addition, a written fence-monitoring plan must be submitted to FWP for approval prior to granting the game farm license. See Response 2a above for additional information regarding potential CWD problems.

Letter Issue 2f:
The required stipulation of weekly fence monitoring is not sufficient to protect public wildlife from contact with potentially diseased game farm animals. Damage to these fences could result from a variety of natural and unforeseen events.

Response 2f:
Given that the game farm licensee will live adjacent to the game farm site, FWP believes that weekly monitoring will be sufficient to detect possible problems that may arise with fence integrity. The licensee must also submit a written fence-monitoring plan for approval by FWP that specifies how the perimeter fence would be monitored.

Letter Issue 2g:
The subject of fair chase hunting ethics is not fully discussed. A stipulation should required that prohibits any reference to "hunting" in any solicitation of potential clients by the game farm owners.

Response 2g:
Fair chase hunting ethics is a difficult subject to relate to captive animals (i.e., alternative livestock) in game farms. There are obviously differing opinions on whether shooting these animals is considered "hunting". This issue was addressed in the Draft EA on page 36 (paragraph 9(e)) and pages 42-43 (paragraph 13(d)). FWP does not have authority to dictate semantics with respect to advertisements used by game farm owners to solicit paying shooting clients.

Letter Issue 2h:
There is not sufficient data to make a No Action determination for the Aesthetics/Recreation section and Cultural and Historical Resources section. An EIS should be prepared to thoroughly determine the aesthetic and cultural effects of this operation. The very nature of these operations is contrary to Montana cultural hunting heritage.

Response 2h:
For the No Action Alternative, it is assumed that the proposed game farm site would remain as rangeland and its current condition would not change significantly. No significant impacts are expected from the Proposed Action on aesthetics and cultural resources as described in the Draft EA. These conclusions are believed to be based on sufficient data and, as such, an EIS would not be required. Refer to Response 2g above for a discussion of game farm ethics.

WRITTEN COMMENT LETTER NO. 3

Letter Issue 3a:
If the game farm animals escape, where would the elk go? Would they destroy the farmer's crop in summer and forage and haystacks in the winter? Will there be compensation for any damages caused to neighbors, and is the game farm owner required to have ample insurance?

Response 3a:
Montana rule ARM 12.6.1538 describes procedures for addressing escaped game farm animals. The licensee shall make every reasonable effort to recapture or destroy escaped game farm animals within specified time periods that range from 24 hours to 5 days, depending on specific conditions. If the licensee cannot capture the escaped animal(s) within the specified time frames, the game farm animal(s) becomes the property of the state. FWP would then likely attempt to capture or kill the escaped animal(s). The game farm licensee would be responsible for any damage resulting from escaped game farm animal(s); however, FWP requires no specific insurance to cover such possible damage.

Letter Issue 3b:
There are too many animals for the amount of acres, and the amount of feed to be given them is not enough.

Response 3b:
The Vegetation section of the Draft EA (pages 25-26) states that the proposed game farm site would supply only about half the annual forage needs of the elk and deer when fully stocked (i.e., 120 adult elk and 24 deer). The Draft EA (page 26) further indicates that "the maximum proposed stocking rate is considered high and probably would contribute to the long-term decline of vegetation resources both in terms of plant species composition and productivity of the site. Supplemental feed would be required to sustain the elk and deer during the non-growing season and some feed should be provided during the growing season to help reduce use by game farm animals on the native vegetation." The game farm owner intends to start with a small number of elk (5-20) and slowly build the herd as conditions allow (see Letter Issue 9a below).

Letter Issue 3c:
What happens when a sick or diseased game farm animal comes in contact with local wildlife or cattle or horses; will all wildlife and domestic animals have to be destroyed?

Response 3c:
The Department of Livestock is responsible for disease-related issues for game farm animals and wildlife that may come in contact with game farm animals. If a sick or diseased game farm animal were to escape from the enclosure, disease testing of the animal likely would be performed. Testing of wildlife and/or livestock that may have come in contact with the escaped game farm animal also may be conducted. According to ARM 12.6.1538(5), FWP may immediately destroy any escaped game farm animals that pose a risk to wildlife or to public health or safety.

WRITTEN COMMENT LETTER NO. 4

Letter Issue 4a:
The raising of alternative livestock (i.e., elk and deer) is a better use of the land than for cattle previously grazed on the site because of an unreliable water source for cattle.

Response 4a:
Comment noted.

Letter Issue 4b:
Based on the Draft EA, only one significant impact was identified; this makes a very strong case in favor of granting a permit.

Response 4b:
Comment noted.

Letter Issue 4c:
The game farm owner/operator intends to have a small family operation, beginning with only five animals.

Response 4c:
Comment noted. The EA was prepared assuming that the maximum proposed number of 120 elk and 24 deer would eventually be placed in the 320-acre enclosure. This is necessary because the applicant wants authority for that many animals. A license, if given, would authorize that many animals immediately.

WRITTEN COMMENT LETTER NO. 5

Letter Issue 5a:
I urge you to choose the No Action Alternative; I am gravely concerned about the known and unknown risks of disease transmission to domestic cattle and wildlife from game farm animals. A disease found on the game farm would cause undue hardship on our neighboring cattle operation; possibly causing quarantine of our herd and intense testing for an unknown period of time.

Response 5a:
The Risk/Health Hazards section of the Draft EA (pages 33-35) discusses potential disease-related impacts from the game farm animals. Also refer to Responses 2a, 2b, 3a, 3b, and 3c above for additional disease-related information. If fence integrity is maintained, risk to wildlife from disease transmission is believed to be minor.

Letter Issue 5b:
We pasture and water our cattle on land adjacent to the proposed game farm. All water runoff from the game farm will enter and contaminate our surface water. Clearly the health of our livestock will be at risk from the runoff.

Response 5b:
There is some risk of impacts to surface water runoff from the proposed game farm site; however, as described in the Water section (pages 22-24) and the Risk/Health Hazards section (page 33) of the Draft EA, the risks are minor. Also see Response 2a above for additional information about potential transmission of water-borne disease pathogens out of the game farm site.

Letter Issue 5c:
The density of the proposed game farm herd in such a small "corral" would promote disease and death, especially given the fact that so much is unknown about CWD and its transmission.

Response 5c:
The Draft EA contains a considerable amount of information regarding potential disease problems on the game farm, including CWD (see Risk/Health Hazards section, pages 33-35; and the first half of page 45). Also see Response 3b above for additional information about game farm animal density.

Letter Issue 5d:
Game farming is an unproven, risky business venture that FWP would be subsidizing by being forced to constantly monitor at taxpayers expense.

Response 5d:
Comment noted. Game farming is a business that is allowed by Montana law, and FWP/DoL are responsible for regulating such enterprises. The state legislature determines what fees can be assessed game farms with respect to licensing and monitoring and the other funding sources used to carry out these responsibilities.

WRITTEN COMMENT LETTER NO. 6

Letter Issue 6a:
The forage estimate in the Draft EA of 750 lbs./acre on upland areas and 1500 lbs./acre in the coulee bottoms is grossly over-estimated; these areas might produce 300 lbs./acre on uplands and 500-600 lbs./acre in coulee bottoms. The ability of 320 acres to sustain 144 animals for even six months a year is extremely unlikely; several agencies recommend cattle stocking of 10-30 acres/animal unit. The game farm would be overstocked even if one cow equals three elk.

Response 6a:
See Response 3b above and Response 6b below. Comment noted regarding forage estimates; the values in the EA were based on a field site visit, which we believe to be reasonable estimates. The Draft EA does acknowledge that there would be a long-term decline in vegetative cover based on the proposed maximum number of game farm elk and deer.

Letter Issue 6b:
The virtual feedlot situation that would develop at the game farm would not just degrade the vegetation, it will destroy it; prairie plant life is fragile; consequently, severe soil erosion from water and wind is inevitable.

Response 6b:
Near the top of page 23 of the Draft EA, it describes an "animal feeding operation" and "concentrated animal feeding operation" (CAFO) permit that may apply to the game farm if vegetative cover is significantly reduced; if such a situation occurs, the Montana Department of Environmental Quality could require actions to improve vegetation conditions and reduce erosion problems. Also as state on page 23 of the Draft EA, supplemental feed and proper management practices would be needed to maintain adequate vegetative cover on the game farm site. Also see the Vegetation section of the Draft EA (pages 25-26) and Response 3b for additional information regarding potential vegetation impacts.

Letter Issue 6c:
All runoff from the game farm would run directly through our property and into Reservation Creek; cattle are not carriers of the diseases that game farm animals could carry. The possibility of water-borne pathogens carried by runoff from the game farm into our livestock-watering source (Reservation Creek) could prove to be injurious to us and our neighbors.

Response 6c:
See Responses 2a and 5b above.

Letter Issue 6d:

The Draft EA states on page 33 that the risk of disease... being passed "to domestic livestock would be minimal if fence integrity is maintained." However, on another game farm when TB was tested positive, a neighboring rancher was required by the Montana Department of Livestock (DoL) to put his herd of cattle under quarantine and testing for two years. In this case, the DoL did not obviously feel that the game farm fence prevented the possible spread of disease to outside livestock.

Response 6d:

Comment noted; both FWP and DoL are concerned about the possible spread of disease among animals, and will require monitoring if there is reason to suspect its presence.

Letter Issue 6e:

It is contradictory when FWP makes the decision regarding approval of a game farm, but in the event of a disease, the DoL will be dictating policies to us. Who will be held accountable or liable in the event of a disease outbreak?

Response 6e:

Responsibilities for administering the game farm program are specified in Montana statute (87-4-408 MCA). In the event of a disease problem, DoL has primary jurisdiction in making sure that the problem is properly addressed. The game farm licensee may be financially responsible for any costs that could be incurred by a third party, such as a neighboring rancher.

Letter Issue 6f:

It is our opinion that additional game farms, particularly with high-density populations such as the proposed game farm, could prove to be breeding grounds for disease and disease-ridden game.

Response 6f:

Comment noted.

Letter Issue 6g:

In an emergency/panic situation, such as a range fire, release or escape of the game farm animals would have a detrimental impact on us and our neighbors.

Response 6g:

Comment noted; we would expect that the game-proof fence would retain the animals (i.e., prevent egress), even during a fire, unless the fence were damaged by the fire.

WRITTEN COMMENT LETTER NO. 7

Letter Issue 7a:
The proposed game farm area has a large amount of gumbo, which cause most rainfall to runoff into Reservation Creek. Any disease in the game farm could easily end up in the creek and affect everybody downstream. My big problem is with CWD for which very little is known.

Response 7a:
See Response 2a above.

Letter Issue 7b:
The buffer zone between the game farm perimeter fence and the adjacent private property fence should be mowed or tilled to keep the grass down so that cattle and/or wildlife are not attracted to the possible tall grass cover in this area.

Response 7b:
Montana rule requires that vegetation be cleared along the inside of the exterior fence (ARM 12.6.1535); however, there is no requirement for clearing vegetation outside of the fence. Your recommendation has been added to the list of mitigation measures specified in this Final EA (see Errata section above).

Letter Issue 7c:
With the proposed animal density, barren ground would develop unless there is a year round heavy feeding program. Erosion would affect adjacent property owners. Noxious weeds also would move into these areas where native grass cover is reduced or eliminate.

Response 7c:
As stated in the Land Resources section of the Draft EA (page 18), "maintaining an adequate vegetative cover is integral in reducing potential impacts to soil structure and productivity resulting from both wind and water erosion." In addition, weeds are addressed in the Vegetation section of the Draft EA (paragraph 4(e) on page 26). Stocking density and proper game farm management must be controlled such that erosion and weeds do not become significant problems.

Letter Issue 7d:
The proposed game farm area has a lot of hunters and shooters; a stray bullet may kill a game farm animal, which would be blamed on those that oppose the game farm.

Response 7d:
Comment noted.

Letter Issue 7e:
Several statements made against allowing shooting on the game farm; ethical concerns.

Response 7e:
Shooting issues are discussed on page 34 (section 8(d)) and page 36 (section 9(e)) of the Draft EA. Also see Response 2g above.

Letter Issue 7f:
Several statements made against FWP having to spend time and money to license and monitor game farms; money from hunters and fishers should not be spent on these operations.

Response 7f:
Comment noted. Game farms are allowed and regulated under Montana law and rules, and the state legislature establishes the fees that game farmers must pay to be licensed and the funds to be used by FWP to carry out its responsibilities. This issue was addressed on page 38 (paragraph 10(a)) of the Draft EA.

Letter Issue 7g:
The quantity and quality of recreation should not be allowed to be affected in areas surrounding a game farm.

Response 7g:
Comment noted. This issue was addressed on page 39 (paragraph 11(c)) of the Draft EA.

Letter Issue 7h:
Just because a few politicians in our state think that game farms are O.K. does not mean it is right.

Response 7h:
Comment noted.

WRITTEN COMMENT LETTER NO. 8

Letter Issue 8a:
The applicant has currently considered one residence initially that would be located on Section 18 - outside of the game farm perimeter fence. An additional residence, which may or may not be within the game farm perimeter fence, would not change the gate location or operation viability.

Response 8a:
Comment noted; see Errata section above for correction to the EA.

Letter Issue 8b:
Statements on pages 5 and 18 of the Draft EA imply that a considerable amount of moderately steep hills to be crossed by the game farm fence; only a very small part of the east half of Section 13 consists of such hills that would affect the required fencing.

Response 8b:
Comment noted. See Response 2c above. Page 45 of the Draft EA has a more accurate statement regarding slopes: "The fence would perpendicularly cross a few moderate (10-20 degrees) to steep (20+ degrees) slopes." Most of the game farm fence would cross low-gradient slopes (see Figure 1). The required stipulation in this Final EA includes a requirement that the fence be raised to a total height of 10 feet on steep (30+ degree) slopes; this would apply to only a short distance of the perimeter fence.

Letter Issue 8c:
The concern stated on page 6 of the Draft EA regarding the high risk of corrosion for exposed metal due to soil types is without foundation. Proper treatment - whether wood or metal - serves to reduce the cost of maintenance and to extend serviceability.

Response 8c:
Comment noted.

Letter Issue 8d:
Reference to Armells Creek is immaterial since its location is outside the game farm drainage areas.

Response 8d:
Comment noted; this creek was included only as a point of reference for the game farm location; this creek also is included on Figures 2 and 3 in the Draft EA.

Letter Issue 8e:
Reference to elk occasionally passing through the area is highly speculative in that there are no resident herds in the area. Further, there is no documentation to this allegation.

Response 8e:
On page 27 of the Draft EA, it references personal communication with Scott Denson, FWP wildlife biologist, for information regarding the occasional presence of elk in the area.

Letter Issue 8f:
Reference to the proposed construction of two residences within the proposed game farm enclosure is incorrect. Further, the materiality of a residence in or near the proposed game farm is not defined.

Response 8f:
See Issue 8a and associated response above. The applicability of a residence in or near the proposed game farm include: (a) more frequent traffic through the northeast gate that would provide more chance for gates accidentally remaining open; and (b) the residents can readily inspect the fence for potential problems.

Letter Issue 8g:
Domestic elk and/or deer to be managed on the game farm have certified health certificates and must remain in a quarantine facility for a specified time for observation/testing for such undefined contagious wildlife disease or parasite. Any real concerns should be directed at the wildlife which remain outside of the game farm.

Response 8g:
Comment noted. See Responses 1a and 2b above. The last paragraph on page 33 of the Draft EA acknowledges the disease testing requirements of game farm animals.

Letter Issue 8h:
Reference to "shooting operations" unfairly neglects to mention the other hunting and non-hunting shooting that occurs with frequency in the surrounding area. Local in-season hunting generally occurs on a year-round basis for one wildlife species or another without documented complaints by the local landowners and hunters so affected.

Response 8h:
We agree that hunting and shooting do occur on a regular basis in the project area; this statement should have been included in the Risk/Health Hazards section of the EA.

Letter Issue 8i:
Statements of concerns presented in the Water sections (pages 9 and 22-24) of the Draft EA are highly speculative and tend to give the impression that the applicant has not, and will not, employ good stewardship of his land and/or animals.

Response 8i:
The EA is not meant to imply that the applicant would not have good stewardship practices with respect to the game farm operation; however, the impact assessment is based on the maximum number of game farm animals proposed by the applicant. As such, we believe that year-round occupancy of 120 elk and 24 deer on 350 acres in eastern Montana could have water-related impacts that are described in the Draft EA.

Letter Issue 8j:
Statements on page 9 under Vegetation Resources regarding forage and supplemental feed are speculative, but would apply to any type of livestock operation, whether cattle, sheep, or controlled wildlife.

Response 8j:
Comment noted.

Letter Issue 8k:
Under Proposed Action on page 28 of the Draft EA, reference to "gut pile" resulting from harvesting of an animal(s) tends to imply the development of associated odor and other problems.

Response 8k:
The first paragraph on page 28 of the Draft EA states, "The gut pile disposal method has not been determined, yet must meet requirements set forth in ARM 32.4.1002." This statement does not seem to necessarily imply odor or other problems, but just states a fact regarding the regulations that address gut pile disposal.

Letter Issue 8l:
Reference to animals' noises such as bugling as being a possible annoyance does not approach the noises of bovine cows and calves at weaning time, and as such, is inappropriate. What efforts are underway with elk bugling noise impacts in the wild?

Response 8l:
Comment noted; the EA addresses possible noise impacts from bugling elk in the game farm and not wild elk because game farms are a licensed facility that must address all potential impacts of the operation.

Letter Issue 8m:
Why has the proposed game farm been singled out for a public hearing?

Response 8m:
A public request was made to hold a public meeting; therefore, a meeting was scheduled by FWP.

WRITTEN COMMENT LETTER NO. 9

Letter Issue 9a:
The game farm operation will be a small one; it will begin with 1-5 animals, followed by a slow building of the herd. The game farm will not be a feedlot. There will be one barn, one small set of handling and quarantine facilities, plus 320 acres of high quality fence.

Response 9a:
Comment noted.

TELEPHONE COMMENT NO. 1

Phone Issue 1a:
Concern about possible spread of Brucellosis and CWD to livestock. Would the existing fence remain on the property line and, if so, would the neighboring landowner be responsible for 50% of the fence maintenance as Montana law requires?

Response 1a:
See Responses 1c, 2a, 3c, 5a, 5b, and 5c above for additional information regarding potential disease-related impacts from the game farm animals. Any costs associated with maintenance of the game farm fence would be the responsibility of the licensee. If an existing property fence remains in place, that fence would likely have shared maintenance responsibilities.

TELEPHONE COMMENT NO. 2

Phone Issue 2a:
Fear of spread of CWD and Brucellosis; ability of fence to prevent ingress/egress in rough terrain; DoL is not concerned enough about game farms and CWD.

Response 2a:
See Response 1a above regarding disease-related issues. See Responses 2c and 2e for Written Comment Letter No. 2 for information about fence integrity. Responsibilities for administering the game farm program are specified in Montana statute (87-4-408 MCA). The DoL has primary jurisdiction over disease-related issues.

TELEPHONE COMMENT NO. 3

Phone Issue 3a:
Game farms should be required to pay all FWP costs for supervising and monitoring game farms, including travel costs. We are serving a private interest with no benefit to the public. This takes time away from public business, which the public is already paying to have done.

Response 3a:
Comment noted. Game farming is a business that is allowed by Montana law, and FWP/DoL are responsible for regulating such enterprises. The state legislature determines what fees can be assessed game farms with respect to licensing and monitoring and what other sources of funds must be used to carry out these responsibilities.

PUBLIC MEETING COMMENTS

Meeting Comment 1a:
Concerned if wells will produce sufficient water for the game farm elk; hunting heritage and fair chase are important and pen shooting does not fit these criteria.

Response 1a:
Water rates required for the game farm animals would be relatively low and are not expected to cause the wells to go dry; if they do, however, deeper well(s) would likely have to be drilled.

Meeting Comment 1b:
Game farm animal stocking rate is way too high - it will turn pasture into a dust bowl; winter will be difficult to get in and out of game farm site.

Response 1b:
See Response 3b under Written Comment Letter No. 3 for a discussion of stocking rate. Comment noted regarding winter conditions; it is the responsibility of the game farm operator to get sufficient feed to the animals on a year-round basis.

Meeting Comment 1c:
Concerned about fence in rough terrain; setback should be related to height of trees; very concerned with CWD - we need a moratorium now; should not call shooting in a pen "hunting".

Response 1c:
See Responses 2c and 2e for Written Comment Letter No. 2 for information about fence integrity. Comment noted for CWD; the Draft EA contains a considerable amount of information regarding potential disease problems on the game farm, including CWD (see Risk/Health Hazards section, pages 33-35; and the first half of page 45). Also see Response 2a above for Written Comment Letter No. 2. The Draft EA refrains from using the term "hunting" when referring to shooting on the game farm.

Meeting Comment 1d:
Proposed game farm animal density will lead to a number of problems; ecological balance will be disrupted.

Response 1d:
Comment noted; see Response 3b under Written Comment Letter No. 3 and Response 6b under Written Comment Letter No. 6 above for a discussion of stocking rate.

Meeting Comment 1e:
Shooting on the game farm will help to keep people off public land where I hunt.

Response 1e:
Comment noted.

Meeting Comment 1f:
In favor of issuing game farm license; FWP and DoL have done a good job; game farms are a small, but needed industry.

Response 1f:
Comment noted.

Meeting Comment 1g:
Tax dollars should not go to subsidize this industry; sportsmen are indirectly subsidizing game farms.

Response 1g:
Comment noted. Game farming is a business that is allowed by Montana law, and FWP/DoL are responsible for regulating such enterprises. The state legislature determines what fees can be assessed game farms with respect to licensing and monitoring and what other funds must be used to carry out these activities.

Meeting Comment 1h:
I would support the game farm if a fence setback is included in the stipulations, and if maximum animal numbers are reduced to reflect the carry capacity of the site; this site could carry about 20 elk year-round with supplemental hay feeding. More study should be performed to determine carrying capacity of the game farm site. Any runoff that goes off the game farm site is unacceptable. Suggest a combination of limits on grazing time as well as livestock numbers to maintain or improve condition of the range.

Response 1h:
A fence setback requirement was included in the stipulation contained in the Draft EA (page 12); however, this statement has been revised in the stipulation in this Final EA to provide more detail as to the setback and the rationale (see Errata section above). See Letter Issue 9a above regarding animal density in the proposed game farm. Also see Response 3b under Written Comment Letter No. 3 and Response 6b under Written Comment Letter No. 6 for a discussion of stocking rate and vegetative cover.

CONCLUSION OF THE EA

The Draft EA, as modified herein, and this Final EA are approved as the Final EA for the Mara Green Pines Game Farm. The preferred alternative is the Proposed Action, modified with the stipulations listed in this Final EA. Based on this review, it is determined that the Proposed Action with the required stipulations would not have a significant impact on the environment and that an EIS will not be required.

ANALYSIS OF IMPACT ON PRIVATE PROPERTY

Montana game farm statues (87-4-476, MCA) require that game farm licenses may be denied or issued with stipulations to prevent unacceptable threat of escape of captive game farm animals and to prevent a significant threat to the safety of the general public and surrounding landowners and by the shooting of game farm animals. MEPA requires FWP to identify and analyze environmental impacts of the Proposed Action and potential mitigation measures. MEPA, as revised by Senate Bill 231 of 1995, also requires agencies to evaluate the impact on private property of regulatory actions, such as denial of a permit or establishment of permit conditions (75-1-201, MCA). The Environmental Quality Council (EQC) has established procedural guidelines to implement these requirements. The analysis provided in the Draft EA was prepared in accordance with implementation guidance issued by the EQC.

In addition, the Private Property Assessment Act (2-10-101, MCA, et seq.) requires agencies to determine whether proposed actions by the State of Montana have "taking or damaging implications", such as to constitute a deprivation of private property in violation of the United States or Montana constitutions and, if so, to perform an impact assessment to determine the likelihood that a state or federal court would hold that the action is a taking or damaging, to review alternatives, and to determine the estimated cost of compensation. In accordance with the Act, the attorney general has prepared guidelines, including a checklist, to assist agencies in identifying and evaluating actions with taking or damaging implications.

The Draft EA contains FWP's completed checklist with respect to the stipulations recommended in the preferred alternative and has found that the preferred alternative does not have taking or damaging implications and that an impact assessment is not required.

PERSONS RESPONSIBLE FOR PREPARING THE EA AND RESPONSES TO COMMENTS

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